

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

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STATE OF TEXAS, ET AL.;

*Plaintiffs,*

*v.*

UNITED STATES OF AMERICA, ET AL.;

*Defendants,*

*and*

KARLA PEREZ, ET AL.;

STATE OF NEW JERSEY,

*Defendants-Intervenors.*

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Case No. 1:18-cv-00068

**PLAINTIFF STATES' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56(a), Plaintiff States respectfully move the Court for summary judgment on Counts I, II, and III of their First Amended Complaint (ECF No. 104). There are no genuine disputes as to any material fact, and Plaintiff States are entitled to judgment as a matter of law.

Plaintiff States specifically request the following relief against the Defendants, their officers, agents, employees, and attorneys:

1. A declaratory judgment that DACA is procedurally unlawful under the Administrative Procedure Act ("APA");

2. A declaratory judgment that DACA is substantively unlawful under the APA;
3. A declaratory judgment that the Deferred Action for Childhood Arrivals (“DACA”) program violates the Take Care Clause of the United States Constitution; and
4. An order setting aside the 2012 memorandum and preventing the Federal Defendants from issuing any new grant of deferred action status pursuant to the DACA program and any renewal of deferred action status pursuant to DACA.

In support of this Motion, Plaintiff States adopt and incorporate by reference, as if fully stated herein, the arguments presented in support of their motion for preliminary injunction and first amended complaint, ECF Nos. 5, 104, 218, 282, and 306, as well as the evidence offered in support, ECF Nos. 6, 7, 8, 9, 219-1 through 219-22, 284-1 through 284-25, and 290-1, and ask the Court to consider those filings and evidence in support of this Motion.

A brief in support of this Motion satisfying the requirements of Local Rule 7.1 and Judge’s Procedure 7(J), an Appendix, and a proposed order and judgment are filed contemporaneously with this Motion.

Wherefore, the Plaintiff States respectfully request that judgment be entered in their favor and against Defendants.

February 4, 2019

Respectfully submitted.

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**CERTIFICATE OF SERVICE**

I certify that on February 4, 2019, this document was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Todd Lawrence Disher  
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**COUNSEL FOR PLAINTIFF STATES**

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**ORDER GRANTING PLAINTIFF STATES'  
MOTION FOR SUMMARY JUDGMENT**

This matter came before the Court on Plaintiff States' Motion for Summary Judgment on Counts I, II, and III of their First Amended Complaint (ECF No. 104). After reviewing the briefing on the matter, the evidence properly offered in support of Plaintiff States' Motion for Summary Judgment, and all other matters properly before the Court, the Court finds that there are no genuine issues of material fact and that Plaintiff States are entitled to judgment as a matter of law.

The Court concludes that the Deferred Action for Childhood Arrivals ("DACA") program violates both procedural and substantive requirements of the

Administrative Procedure Act, 5 U.S.C. §§ 553, 706, as well as the Take Care Clause of the United States Constitution, U.S. Const. art. II, § 3.

Accordingly, **IT IS HEREBY ORDERED, ADJUDGED, and DECREED** that that Plaintiff States' Motion for Summary Judgment is granted and the 2012 memorandum that created the DACA program is set aside.

**SO ORDERED** on this \_\_\_\_ day of \_\_\_\_\_, 2019.

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Andrew S. Hanen,  
U.S. District Court Judge